IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.12 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr.R.D.Soni, for the Petitioners
Mr.C.R.Sonawane, A.G.P. for
Respondents 1 and 2.

CORAM : F.I. REBELLO & S.P. KUKDAY,JJ.
DATED : 16TH FEBRUARY, 2005

P.C.

. Rule. Heard forthwith.

2. The Petitioner to pay the Court Fees within seven days from today. Office is directed to accept the Court Fees.

3. The petitioner has filed the present petition as a society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960. It is their case that it is a Federation of all the 272 Agricultural Produce Market Committees in the State of Maharashtra. Amongst its objects are to solve the problems of the APMCS, coordinate their working, to take steps for their welfare and represent APMCs

before various authorities both State and Central. The petitioners have averred that APMCs are established under the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, hereinafter referred to as the Act. Pursuant to the provisions of Section 12(1) of the Act the APMCs are local authorities. Their main function is to eliminate the malpractices in the wholesale trade of agricultural produce and to save the agriculturists from exploitation. As a part of their function and in terms of the Act they have to construct and maintain the wholesale markets of agricultural produce.

3. In terms of the relevant law namely the Maharashtra Land Revenue Code the petitioners APMCs are also required to pay the non-agricultural assessment. Section 117 of the Land Revenue Code, however, provides for certain exemption as set out therein and further in terms of the Rules made by the Government pursuant to the power conferred under Section 117(5). Rule 22(2) amongst others reads as under:-

> "(2) Lands used for hospitals, hostels, playgrounds, parks and garden, office premises of local authorities and gymnasiums or for

roads, paths and lanes set apart in layouts, for the benefit of all citizens without distinction of religion, race, sex, place of birth or any of them shall be exempt from the payment of non-agricultural assessment so long as they are used for any of the said purposes and for no other purposes and yield no profit to private individuals or to any person."

4. Apart from that the State Government has also issued circular dated 27th December, 1982. In that Circular the demand made by the APMCs for exemption from N.A. assessment has been rejected. However, it is set out therein that the area covered by road as well as that for public services will not be liable for non-agricultural assessment. This is in conformity with the Rules which have already been framed.

5. The grievance of the petitioners herein is that contrary to the Rules and Circular the Respondents have been demanding N.A. assessment including those for roads which are there in the markets constructed by the APMCs. It is their further contention in so far as the N.A.

assessments are concerned they have been making payment of the amount claimed except to the extent of those areas which are excluded. The submission is that the demand made on them for N.A. Assessment including of roads is without jurisdiction being contrary to the Rules as quoted above as also to the instructions issued by the Government itself.

6. Though the matter is pending in this Court and has been adjourned from time to time no reply has been field on behalf of the Respondents. However, considering the order to be passed really speaking we need not wait for the reply to be filed as the issue of law cannot be disputed.

7. Rule 22 of the Rules as quoted above is clear. There is no serious dispute, and it has not been disputed before us, that the APMCs are local authorities and to that extent Rule 22 will apply to them. Rule 22(2) as quoted earlier clearly sets out the areas, roads, paths and lanes and other facilities which are to be excluded from N.A. assessment provided they are for the benefit of public. Once that be the case the APMCs would be entitled to exclusion of N.A. assessment atleast for those areas

covered by the Rules.

8. In view of the above the following order:-

(i) The respondents within three months from today to reassess N.A. assessment of the APMCs. For that purpose the APMCs within one month from today to submit their letters to the Authorities for assessment setting out the areas which are to be excluded in terms of the Rules.

(ii) On such information being provided the Competent Authority after hearing representation of the APMCs to dispose of the same and issue fresh N.A. assessment within a period of two months thereafter.

(iii) The APMCs on such assessment being received will deposit the amount.

(iv) On deposit, if they are still aggrieved by the assessment, it will be open to them to challenge the same before any competent forum which they are entitled to.

(v) Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)